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Note verbale dated 9 June 2016 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and, in the light of the comprehensive review of the status of the implementation of the resolution, has the honour to transmit herewith the information regarding Ukraine's implementation of the above-mentioned resolution (see annex).

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Annex to the note verbale dated 9 June 2016 from the Permanent Mission of Ukraine to the United Nations addressed to the Chair of the Committee

[Original: Russian]

Information on the implementation by Ukraine of Security Council resolution 1540 (2004) regarding the non-proliferation of weapons of mass destruction in 2015

1. Participation by Ukraine in international non-proliferation regimes

Ukraine is pursuing a responsible and consistent policy in the area of arms control and the non-proliferation of weapons of mass destruction. It is an active participant in the regimes for the non-proliferation of weapons of mass destruction built around such basic international legal instruments as:

- The Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 (ratified by Ukraine on 16 November 1994);
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993 (ratified by Ukraine on 16 October 1998);
- The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 10 April 1972 (ratified by Ukraine on 26 March 1975).

As one of the founders of the International Atomic Energy Agency (IAEA), Ukraine fully supports IAEA efforts in the area of the non-proliferation of nuclear weapons. That commitment has been demonstrated by, in particular, Ukraine's signature and strict observance of the Agreement between Ukraine and IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, as well as the signature in August 2000 of a protocol additional to this Agreement, which is intended to strengthen the IAEA safeguards regime (ratified by Ukraine on 16 November 2005).

Ukraine is a member of the following five international export control regimes: the Wassenaar Arrangement (export controls for conventional arms and for dual-use goods and technologies), the Missile Technology Control Regime, the Nuclear Suppliers Group, the Zangger Committee (control over international transfers of dual-use goods which are or could be used in nuclear activities) and the Australia Group (export controls on dual-use goods which could be used to produce chemical, biological or toxin weapons).

Ukraine recognizes the key role of the regimes described above in the sphere of non-proliferation of weapons of mass destruction and control over international transfers of weapons, and is in favour of developing them further and refining the mechanisms for cooperation among States parties within the framework of these regimes, particularly by stepping up cooperation in fields such as law enforcement, exchanges of information and also collaboration between the national authorities responsible for export control issues.

Ukraine plays an active role in the multi-purpose projects of the Global Partnership against the Spread of Weapons and Materials of Mass Destruction, a Group of Seven initiative. Ukraine is a member of the Global Initiative to Combat Nuclear Terrorism and contributes to the achievement of its aims, in accordance with the basic principles and norms of current international law and national legislation. In October 2015, Ukraine acceded to the Global Health Security Agenda.

Ukraine provides no support in any form to State or non-State actors attempting to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons or their means of delivery. Any such support is prohibited under Ukrainian law.

2. Domestic legislation

Non-proliferation of nuclear weapons

- The Declaration of State Sovereignty of Ukraine, adopted by the Verkhovna Rada on 16 July 1990, in which the Ukrainian Soviet Socialist Republic proclaims its intention to adhere to three non-nuclear principles: not to accept, not to produce and not to acquire nuclear weapons;
- The Act on nuclear energy use and radiation safety of 8 February 1995 (as amended);
- Cabinet of Ministers Decision No. 1525 of 18 December 1996 approving regulations for a State accounting and control system for nuclear materials (as amended by Cabinet of Ministers Decision No. 257 of 25 March 2009);
- The Act of 17 December 1997 ratifying the Agreement between Ukraine and IAEA for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (the Agreement entered into force for Ukraine on 2 January 1998);
- The Act of 16 November 2005 on the ratification of the Additional Protocol to the Agreement between Ukraine and IAEA for the application of safeguards pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons;
- The Supreme Soviet Decision on the participation of Ukraine in the 1980 Convention on the Physical Protection of Nuclear Material (the Convention entered into force for Ukraine on 5 August 1993);
- Act No. 356-VI of 3 September 2008 on the ratification of the amendment to the Convention on the Physical Protection of Nuclear Material;
- Act No. 2064-III of 19 October 2000 on the physical protection of nuclear facilities, nuclear materials, radioactive waste and other sources of ionizing radiation.

Non-proliferation of biological and chemical weapons

Ukraine adopted the Act of 16 October 1998 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. In the interests of fully implementing the Convention, Ukraine has also adopted the following laws and regulations:

- Presidential Decree No. 1080 of 26 August 1999 on the implementation of the Convention (as amended);
- Cabinet of Ministers Decision No. 2230 of 9 December 1999 on assistance in the implementation of the Convention;
- Cabinet of Ministers Decision No. 920 of 6 June 2000 on regulations governing the procedure for inspections in accordance with the Convention (as amended);
- Cabinet of Ministers Decision No. 109 of 7 February 2001 approving regulations governing the procedure for the preparation of national declarations pursuant to the Convention.

The decree ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction was adopted by the Presidium of the Supreme Soviet of the Ukrainian Soviet Socialist Republic on 26 March 1975.

In August 2005, the Ministry of Health of Ukraine and the United States Department of Defence signed an agreement on cooperation to prevent the proliferation of technologies, pathogens and expertise which could be used to produce biological weapons. On the whole, the activities under that agreement are geared towards the following: strengthening the capacities of the Ukrainian specialized agencies to identify and respond to outbreaks of diseases caused by especially dangerous pathogens; achieving international biosafety and biosecurity standards in laboratories; conducting joint research; and training experts working with especially dangerous pathogen agents.

3. Legal and regulatory framework in specific sectors

Export control

The legal basis for State export control consists of the Constitution, laws, acts of the President and Cabinet of Ministers, other laws and regulations of Ukraine, and also international treaties by which the Verkhovna Rada has agreed to be bound.

The legislation on export control includes the following laws and regulations:

- Act No. 549-IV of 20 February 2003 on State control over international transfers of military and dual-use goods (as amended);
- Act No. 959-XII of 16 April 1991 on foreign trade activities (as amended);
- Act No 1644-VII of 14 August 2014 on sanctions;
- The Criminal Code of 5 April 2001, No. 2341-III (as amended);
- The Code of Administrative Offences of 7 December 1984, No. 8073-X (as amended);
- Presidential Decree No. 861 of 15 July 1999 on the procedure for establishing (withdrawing) restrictions on the export of goods in accordance with Ukraine's international obligations (as amended);
- Cabinet of Ministers Decision No. 767 of 15 July 1997 approving regulations governing the procedure for conducting expert analyses in the sphere of export control (as amended);

- Cabinet of Ministers Decision No. 1807 of 20 November 2003 approving the procedure for State control over international transfers of military goods (as amended);
- Cabinet of Ministers Decision No. 86 of 28 January 2004 approving the procedure for State control over international transfers of dual-use goods (as amended);
- Cabinet of Ministers Decision No. 838 of 8 June 1998 approving regulations governing the procedure for granting entities engaged in foreign trade the right to export and import military goods and goods containing information that constitutes a State secret (as amended);
- Cabinet of Ministers Decision No. 920 of 27 May 1999 approving regulations governing the procedure for the provision of safeguards and State monitoring of obligations regarding the use, for declared purposes, of goods subject to State export control (as amended);
- Cabinet of Ministers Decision No. 500 of 6 June 2012 approving the State export control procedure for negotiations related to the conclusion of foreign trade agreements (contracts) for the export of goods (as amended).

In the interests of Ukraine's national security and compliance with its international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery and restriction of transfers of conventional weapons, Cabinet of Ministers Decision No. 159 of 31 March 2015 approved regulations on the State Export Control Service, which implements State policy for State control over international transfers of military, dual-use goods and other goods. Pursuant to these regulations, State export control procedures may be applied and policymaking proposals introduced in accordance with the Act on State control over international transfers of military and dual-use goods.

The principles of State export control policy referred to in the Act on State control over international transfers of military and dual-use goods include the binding force of the obligation to fulfil Ukraine's international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery, the establishment of State control over international transfers of military and dual-use goods and the implementation of measures to prevent such goods from being used for terrorist and other illegal purposes.

The preamble specifies that the Act regulates State control over international transfers of military and dual-use goods in order to protect Ukraine's national interests and ensure that it complies with its international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery.

Article 4 indicates that the principles of State export control policy include the binding force of the obligation to fulfil Ukraine's international obligations regarding non-proliferation of weapons of mass destruction and their means of delivery, the implementation of measures to prevent such goods from being used for terrorist and other illegal purposes, and cooperation with international organizations and foreign States in the sphere of State export control with the aim of strengthening international security and stability, including by preventing the proliferation of weapons of mass destruction and their means of delivery.

Article 10 sets forth State export control procedures designed to prevent the proliferation of weapons of mass destruction and their means of delivery. According to this article, export control procedures may in some cases be applied even to goods which do not appear on the export control lists (the "catch-all" principle).

As an example, if the central executive authorities responsible for export control receive information that there is an intention or likelihood that goods of any kind not appearing on the control lists will be used, in their country of end use, in developing, manufacturing, stockpiling, testing, repairing, servicing, modifying, modernizing, operating, managing, storing, detecting or identifying weapons of mass destruction and their means of delivery, or in their proliferation, those authorities have to notify the State Export Control Service, which may apply State export control procedures to the goods in question.

State export control also applies to the export or temporary export of goods not appearing on the control lists:

(a) If the goods are being exported or temporarily exported from Ukraine to a State against which a full or partial embargo on the supply of such goods has been imposed by a United Nations Security Council resolution, by another international organization or by national legislation;

(b) If such goods are being imported to the territory of Ukraine and the exporting State has requested the issuance of an international import certificate.

As a result, the non-proliferation requirements oblige all exporters to apply for an export licence if they become aware that the goods are intended for use in an activity connected with the production or manufacture of weapons of mass destruction or their means of delivery, or an activity otherwise connected with such matters.

As the central executive body responsible for implementing State export control policy, the State Export Control Service is required by article 6 of the Act to assist with activities connected with international transfers of goods or to limit or ban such activities where there are grounds to believe that the goods are connected with weapons of mass destruction or are intended for the production of such weapons or their means of delivery, or where there are no adequate safeguards (obligations) regarding the end use of the goods.

The procedure for State control over international transfers of dual-use goods was adopted by Cabinet of Ministers Decision No. 86 of 28 January 2004. This procedure defines the features of State control over international transfers of dual-use goods, specifically goods which can be used to produce conventional weapons, military or specialized technology, missiles or nuclear, chemical, biological or toxin weapons, regardless of the conditions of supply, the nature of the contracts, the customs regime or other aspects of the transfer.

The procedure applies to all entrepreneurs in Ukraine registered with the State Export Control Service as entities undertaking international transfers of goods and engaged in export, import, transit or any other form of foreign trade activity, including manufacturing, science and technology or participation as demonstrators in international exhibitions and fairs.

The procedure therefore excludes the possibility of international transfers of dual-use goods which could be used by non-State actors to produce weapons of mass destruction or their means of delivery.

In accordance with the provisions of this procedure, and also the procedure for State control over international transfers of military goods approved by Cabinet of Ministers Decision No. 1807 of 20 November 2003:

It is prohibited to export individual goods to countries against which the United Nations Security Council has imposed an embargo on the export of such goods and also in the event that expert analyses in the area of State export control indicate that there are grounds to believe they are intended for:

(a) The production of weapons of mass destruction or their means of delivery;

(b) Use for terrorist or other illegal purposes;

(c) Use in activities connected with the production of nuclear explosive devices or in activities connected with the nuclear fuel cycle which are not under IAEA safeguards;

(d) Use in activities connected with the acquisition, production, stockpiling or use of pathogenic agents (pathogens) and toxins as biological and toxin weapons or their components.

Lists of dual-use goods

Lists of dual-use goods that may be used to produce a missile (means of delivery of weapons of mass destruction) or a nuclear, chemical or biological weapon are set forth in annexes 2 to 5 of the procedure for State control over international transfers of dual-use goods.

Goods included in the lists that are transported across the customs borders of Ukraine are subject to mandatory customs clearance according to the procedure established under the legislation of Ukraine.

Customs control

Pursuant to article 544, subparagraph 2 (7), of the Customs Code, the revenue and duties agencies are mainly responsible for State export control activities within their mandated areas, in line with the current Code and other Acts of Ukraine.

Article 6 of Act No. 549-IV of 20 February 2003 on State control over international transfers of military and dual-use goods establishes the competent bodies for State export control.

State export control policy is implemented by a specially designated authority in that area, the State Export Control Service, and by the ministries and other central executive agencies authorized by legislation to carry out State export control measures.

Under Cabinet of Ministers Decision No. 159 of 31 March 2015 approving regulations for the State Export Control Service, the Service is a central executive agency whose work is managed and coordinated by the Cabinet of Ministers

through the Ministry of Economic Development and Trade and which implements State export control policy.

In accordance with article 21 of Act No. 549-IV of 20 February 2003, customs clearance and control are governed by the procedure set out in the Customs Code.

In accordance with article 197 of the Customs Code, there are, in certain cases provided for by law, restrictions on the movement of particular goods through Ukrainian customs checkpoints. Passage of such goods through Ukrainian customs and customs clearance are carried out by the revenue and duties agencies, on the basis of documents issued by the authorized State oversight agencies confirming compliance with the restrictions.

The procedures for control over international transfers of goods that could be used to create weapons of mass destruction (missiles or nuclear, chemical, bacteriological (biological) and toxin weapons) and the lists of such items were approved by Cabinet of Ministers Decision No. 1807 of 20 November 2003 approving the procedure for State control over international transfers of military goods, and Cabinet of Ministers Decision No. 86 of 28 January 2004 approving the procedure for State control over international transfers of dual-use goods.

Under the terms of the procedures established by these Decisions, entities undertaking international transfers of goods or foreign economic entities may engage in international goods transfers if they have the appropriate authorization from the State Export Control Service.

The procedure for the use in customs agencies of State Export Control authorizations and their electronic copies was approved by Ministry of Finance Decree No. 649 of 30 May 2012, Ministry of Justice registration No. 1040/21352 of 22 June 2012.

Border control

The State Border Service and its agencies are authorized to conduct activities to prevent, detect and interdict attempts to unlawfully transfer across the State border of Ukraine poisonous and radioactive substances or other items that could be used to commit terrorist acts.

Furthermore, the State border agencies and units have modern equipment in place to detect radioactive and nuclear materials or poisonous and hazardous chemical substances, and to monitor the radiological and chemical situation.

In order to perform these tasks, the State Border Service carries out investigative measures to detect illicit trafficking in radioactive materials across the State border, measures to identify illicit trafficking in radioactive materials and inspections of vehicles crossing the State border with a view to detecting radioactive materials.

In the case of nuclear (radioactive) material being illegally transferred across the State border, the State border agencies undertake a preliminary inspection of the material (item) detected and a preliminary demarcation of the borders of the controlled area; they carry out measures to protect the location where it was detected; and they provide physical protection for the radioactive materials withdrawn from illicit trafficking during illegal border crossings in areas without checkpoints until such materials are duly shipped to the proper destination.

In the context of the military aggression by the Russian Federation in the East of Ukraine, and according to data from the State Nuclear Regulatory Inspectorate and the "Isotope" State enterprise, there are 65 economic entities using over 1,200 sources of ionizing radiation in the temporarily occupied territories of Donetsk and Luhansk provinces, where State control has been lost over the following: cesium^{137}, cobalt^{60}, plutonium^{238}+beryllium, plutonium^{239}+beryllium, strontium^{90}+yttrium^{90}, barium^{133}, americium^{241}, americium^{241}+beryllium, iridium^{192} and krypton^{85}.

The security agencies of Ukraine are taking all necessary measures to prevent the proliferation of these materials from the territories temporarily outside the control of Ukraine.

Physical protection

Physical protection of nuclear materials

According to data from the State Nuclear Regulatory Inspectorate and the "Isotope" State enterprise, there are 65 economic entities using over 1,200 sources of ionizing radiation in the temporarily occupied territories of Donetsk and Luhansk provinces, where State control has been lost over the following: cesium^{137}, cobalt^{60}, plutonium^{238}+beryllium, plutonium^{239}+beryllium, strontium^{90}+yttrium^{90}, barium^{133}, americium^{241}, americium^{241}+beryllium, iridium^{192} and krypton^{85}.

Furthermore, a radioactive waste repository (in operation from 1963 to 1966) is located in a State-run chemical plant in a part of Donetsk province that is not under the control of Ukraine.

According to archival data, this repository contains 159 packages with radioactive waste totalling 600 m^3 and with a total activity of 1.54 x 1,012 Bq. The main radioactive isotopes in the repository are cobalt^{60}, radium^{226} and cesium^{137}.

A lack of control over these materials could cause significant damage to the environment and to human health.

Physical protection of biological materials

The main document defining biosafety and biosecurity rules and standards is the World Health Organization Laboratory Biosafety Manual, which sets out the key principles for working safely in research, diagnostic and industrial laboratories.

Act No. 1103-V of 31 May 2007 on the national biosafety system in the creation, testing, transportation and use of genetically modified organisms establishes measures to ensure biological and genetic safety.

The instrument governing the establishment and operation of the public multi-level centralized system for disease control and oversight in Ukraine is Ministry of Health Decree No. 127/27 of 21 March 2003 on improving the functioning of the system for the detection of biological pathogenic agents, whereby the territory of the State is divided into six areas and a detection centre is located at an institution for disease control research in each area. The centres report to the main detection centres under the provincial health inspection services.

The regulatory instruments governing important biosafety issues are State Health Rules DSP 9.9.5.-080-2002: Rules for apparatus and safe operation in

microbiological laboratories (departments, units) and State Health Rules DSP 9.9.5.-035-99: Rules for the safe handling of microorganisms in pathogenic groups I and II.

Presidential Decree No. 423/2009 of 10 June 2009 established the Commission on Biosafety and Biosecurity, reporting to the National Security and Defence Council of Ukraine.

Ministry of Agrarian Policy and Ukrainian Academy of Sciences Decree No. 479/75 of 10 July 2009 established the standing working group on biosafety for the use of genetically modified organisms in the agro-industrial system.

Today Ukraine is continuing to create a biosafety system and is reforming State bodies and implementing measures to operationalize a national system to counter bioterrorism. It is protecting the population from the uncontrolled and illegal proliferation of genetically modified organisms, maintaining a healthy and safe environment and enhancing logistical support for laboratories and scientific research institutions.

The following laws and regulations were adopted in this area in 2015:

- Act No. 287-VIII of 7 April 2015 on animal by-products not intended for human consumption;
- Cabinet of Ministers Decision No. 32 of 21 January 2015 approved regulations on the Ministry of the Environment and Natural Resources, which was tasked with formulating State policy for protection of the natural environment and for biological and genetic security, as provided for under the law;
- Cabinet of Ministers Decision No. 667 of 2 September 2015 approved regulations on the State Service on Food Safety and Consumer Protection, which is being established under the aegis of the State Veterinary and Phytosanitary Service, the State Inspectorate for Consumer Rights Protection and the State Health and Epidemiological Service. The State Service on Food Safety and Consumer Protection will implement State policy in such areas as veterinary medicine, food safety and quality, plant protection and quarantine and disease control;
- Cabinet of Ministers Decision No. 982 of 30 September 2015 approved detailed rules for organic (raw material) aquaculture production;
- Ministry of Health Decree No. 604 of 18 September 2015 established the Government-run Centre for Public Health of the Ministry of Health;
- Ministry of Education and Science Decree No. 875 of 13 August 2015 established a working group to prepare a draft law amending certain acts on the use of genetically modified microorganisms in a closed system.

4. Liability for the proliferation of weapons of mass destruction

Liability for violation of the laws on State control for the non-proliferation of weapons of mass destruction is governed by the Criminal Code, the Code of Administrative Offences (article 188-17 and 212-4) and the Act on State control over international transfers of military and dual-use goods (section IV, Prevention of violations and liability in the area of State export control).

In accordance with article 24, paragraphs 1 to 10, of the aforementioned Act, offences in the area of State export control include:

- Conduct of international transfers of goods without obtaining a licence, authorization or document of guarantee under the established procedure or conduct of such transfers on the basis of licences, authorizations or documents of guarantee obtained by submitting counterfeit documents or documents containing inaccurate information (para. 1);

- Conclusion of foreign trade agreements (contracts) concerning international transfers of any goods or participation in their implementation in any way other than as specified by this Act if the exporter becomes aware that such goods may be used by a foreign State or foreign business for the purpose of producing weapons of mass destruction or their means of delivery (para. 2);

- Conduct of international transfers of goods even though the exporter has become aware that the goods will be used for other purposes or by other end-users than those specified in the foreign trade agreement (contract) or related documents on the basis of which the licence, authorization or international import certificate was obtained (para. 3);

- Deliberate concealment of information relevant to the decision on whether to grant licences, authorizations or international import certificates (para. 4);

- Conduct of international transfers of goods in violation of the conditions specified in the licences, authorizations or international import certificates, including after making changes to the foreign trade agreement (contract), without the consent of the designated export control authority, concerning the names and identifying information of exporters, importers, brokers and end-users and also the descriptions of goods, end-use requirements and submission of the relevant documents of guarantee (para. 5);

- Conduct of negotiations concerning the conclusion of foreign trade agreements (contracts) on the export of goods, in respect of the supply of which a partial embargo has been imposed on the foreign State concerned, based on Ukraine's international obligations, without obtaining authorization from the designated export control authority (para. 6);

- Failure to submit or late submission to the designated export control authority of reports and relevant documents on the outcome of the negotiations, specified in paragraph 8, on exports and imports of goods actually carried out on the basis of licences, authorizations or international import certificates obtained and also on the use of such goods for their declared purposes (para. 7);

- Obstructing the staff of the designated export control authority and other State bodies involved in State export control, during the performance of their official duties, or failing to comply with legitimate requests by such persons (para. 8);

- Unwarranted refusal to provide information and documents requested by the designated export control authority or other competent State agencies involved in State export control or the deliberate falsification or concealment of such information and documents (para. 9);

– Deliberate destruction of documents relating to the conclusion or execution of foreign trade agreements (contracts) on the conduct of international transfers of goods on the basis of which licences, authorizations or international import certificates were received until the end of the period during which they are required to be retained under article 22 of the Act (para. 10).

Article 25 of this Act establishes the liability of legal entities involved in international transfers of goods for violation of the requirements of the law in the area of export control specified in article 24.

The State Export Control Service imposes the following fines for violations by legal entities involved in international transfers of goods under paragraphs 1 and 2 of article 24:

– 150 per cent of the value of the goods involved in the relevant international transfer if, according to the conclusions of the central executive authorities and other State bodies, the national interests (political, economic or military) of Ukraine have been harmed or its international obligations have been violated;

– 100 per cent of the value of the goods if, according to the conclusions of the central executive authorities and other State bodies, such interests have not been harmed and such obligations have not been violated;

– 100 per cent of the value of the goods involved in the relevant international transfer for violations of paragraphs 3 to 6;

– 1,000 times the individual income tax exemption limit for violations of paragraphs 7 and 11;

– 500 times the individual income tax exemption limit for violations of paragraph 8;

– 100 times the individual income tax exemption limit for violations of paragraphs 9 and 10.

This article also provides that the State Export Control Service, besides imposing the aforementioned fines, may revoke or suspend the licence, authorization or international import certificate for the conduct of international transfers of goods which it granted to such economic entity or revoke its registration with the authority as an entity authorized to conduct international transfers of goods, thereby suspending all licensing documents and documents of guarantee issued to that entity which were current on the date of the revocation of registration.

Criminal liability for the proliferation of weapons of mass destruction

Any development, production, stockpiling or use of weapons of mass destruction is the result of the decisions and actions of individuals, whether they are officials, private businessmen, weapons experts or terrorists. However, the international conventions prohibiting such weapons have almost no provisions on individual liability. States therefore need to introduce appropriate provisions in their legislation to establish criminal liability for activities linked with the proliferation of weapons of mass destruction.

The Criminal Code of Ukraine thus contains eight articles which in one way or another are concerned with criminal liability for activities involving the potential

proliferation of weapons of mass destruction: article 258 (Terrorist act); article 261 (Attacks on facilities which contain objects posing a heightened risk to the environment); article 321 (Illegal production, manufacture, acquisition, transport, transfer and stockpiling for sales purposes or sale of toxic and potent substances); article 326 (Infringement of the rules on handling microbiological or other biological agents or toxins); article 333 (Infringement of the procedure for conducting international transfers of goods subject to State export control); article 439 (Use of weapons of mass destruction); article 440 (Development, production, acquisition, stockpiling, sale and transport of weapons of mass destruction); and article 441 (Ecocide).

Article 333 establishes criminal liability for violation of the established procedure for conducting international transfers of goods subject to State export control. Such actions are punishable by a fine of from 100 to 200 times the individual income tax exemption limit or by custodial restraint for up to three years or imprisonment for the same term, with deprivation of the right to hold certain offices or engage in certain activities for up to three years. In the event that such actions are committed repeatedly or by an organized group, they are punishable by a term of up to five years of custodial restraint or the same term of imprisonment, with deprivation of the right to hold certain offices or engage in certain activities for up to three years.

Article 439 provides that the use of weapons of mass destruction, prohibited by international treaties by which the Verkhovna Rada has agreed to be bound, is punishable by a term of from 8 to 12 years of imprisonment; and in the event that such acts cause the death of persons or other grave consequences, they are punishable by a term of from 8 to 15 years of imprisonment or life imprisonment.

Article 440 provides that the development, production, acquisition, stockpiling, sale and transport of weapons of mass destruction, prohibited by international treaties by which the Verkhovna Rada has agreed to be bound, is punishable by a term of from 3 to 10 years of imprisonment.

Code of Administrative Offences

Article 188-17 of the Code of Administrative Offences establishes the administrative responsibility of individuals and legal entities for non-compliance with legitimate requests by staff of the designated export control authority. Such violations are punishable by a fine on nationals of from 15 to 20 times the individual income tax exemption limit and a fine on officials of from 20 to 50 times the individual income tax exemption limit.

Moreover, in accordance with article 212, a violation of the State export control legislation is punishable by a fine on nationals of from 15 to 20 times the individual income tax exemption limit and a fine on officials of from 20 to 50 times the individual income tax exemption limit for:

- Conduct of negotiations concerning the conclusion of foreign trade agreements (contracts) on the export of military goods, or dual-use goods in respect of the supply of which a partial embargo has been imposed on the foreign State concerned, without obtaining authorization from the designated export control authority;

- Failure to submit or late submission of reports and relevant documents to the designated export control authority concerning the outcome of the negotiations specified in the above paragraph and also concerning international transfers of military and dual-use goods actually carried out on the basis of licences or certificates obtained and also on the use of such goods for their declared purposes;

- Deliberate destruction of documents relating to the conclusion or execution of foreign trade agreements (contracts) for international transfers of military and dual-use goods on the basis of which licences, authorizations or international import certificates were received until the end of the period during which they are required by law to be retained.